

FILED: April 12, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-1927
(3:20-cv-00740)

CHRISTOPHER FAIN; SHAUNTAE ANDERSON, individually and on behalf
of all others similarly situated

Plaintiffs - Appellees

v.

WILLIAM CROUCH, in his official capacity as Cabinet Secretary of the West
Virginia Department of Health and Human Resources; CYNTHIA BEANE, in her
official capacity as Commissioner for the West Virginia Bureau for Medical
Services; WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN
RESOURCES, Bureau for Medical Services

Defendants - Appellants

STATE OF WEST VIRGINIA

Amicus Supporting Appellant

COLORADO; DELAWARE; DISTRICT OF COLUMBIA; FAIRNESS WEST VIRGINIA; MOUNTAIN STATE JUSTICE, INC.; NATIONAL HEALTH LAW PROGRAM; CENTER FOR MEDICARE ADVOCACY; CONSTITUTIONAL LAW PROFESSORS; AMERICAN MEDICAL ASSOCIATION; ENDOCRINE SOCIETY; NATIONAL ASSOCIATION OF NURSE PRACTITIONERS IN WOMEN'S HEALTH; AMERICAN PSYCHIATRIC ASSOCIATION; SOCIETY OF OB/GYN HOSPITALISTS; ILLINOIS; MAINE; MARYLAND; MASSACHUSETTS; MINNESOTA; NEVADA; NEW JERSEY; NEW MEXICO; NEW YORK; OREGON; RHODE ISLAND; VERMONT; WASHINGTON

Amici Supporting Appellee

O R D E R

Upon a sua sponte poll of the court, a majority of judges in regular active service and not disqualified voted to rehear this case en banc.

IT IS ORDERED that rehearing en banc is granted.

The parties shall file 16 additional paper copies of their briefs and appendices previously filed in this case within 10 days.

For the Court

/s/ Patricia S. Connor, Clerk